

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

v.

Criminal No. 3:99cr39

KEVIN RICHARDSON,
Defendant.

AMENDED ORDER/OPINION¹

On the 6TH day of March, 2006, came the defendant, Kevin Richardson, in person and by his counsel, L. Richard Walker, and also came the United States by its Assistant United States Attorney, Shawn A. Morgan, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on February 8, 2006, alleging Defendant violated conditions of his supervised release as follows:

1. Violation of Mandatory Condition No. 1: While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.

The defendant is the target of a criminal investigation by the Harrison County Narcotics Task force involving the distribution of cocaine. Task force agents have made a series of controlled purchases of cocaine from the defendant which were captured by audio and video recorders.

2. Violation of Mandatory Condition No. 1: While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.
3. Violation of Mandatory Condition No. 5: The defendant shall refrain from any unlawful use of a controlled substance.

On January 20, 2006, the defendant furnished a urine specimen which tested positive for marijuana on a preliminary test cup. The defendant admitted that he used marijuana prior to the drug test and he signed the attached Positive Urinalysis Test Acknowledgment.

¹The purpose of this Amended Opinion/Order is to identify Judge Irene M. Keeley as the District Judge presiding in this case; the original order identified Judge W. Craig Broadwater as the presiding district judge.

After determining Kevin Richardson had received, read, and had the opportunity to review and discuss the charges contained in the Petition for Warrant or Summons for Offender Under Supervision with his counsel, the Court proceeded to hear evidence presented by the United States in the form of the sworn testimony of United States Probation Officer Stacey Claxton and Harrison/Lewis County Drug Task Force Sgt. Brian Purkey. The Court also received and considered the Petition for Warrant or Summons for Offender Under Supervision filed by Ms. Claxton. The Court also admitted into evidence four still photographs captured from videotapes of controlled buys.

Upon consideration of the evidence presented and in accord with the oral findings made by the Court on the record of the hearing, the Court makes the following Findings:

1. Defendant was on Supervised Release.
2. One condition of Defendant's Supervised Release is that he no commit another federal, state or local crime, or illegally possess a controlled substance.
3. Another condition of Defendant's Supervised Release is that he refrain from any unlawful use of a controlled substance.
4. On September 2, 2005, a controlled buy took place at the Adamston Elementary School parking lot, a protected location within the Northern District of West Virginia. Law enforcement utilized a confidential informant to purchase cocaine from an individual Sgt. Purkey identified as Defendant. The controlled buy was audio and videotaped, and the substance was laboratory-tested and confirmed to be cocaine. The cocaine, in the amount of just over 3 grams, was purchased for \$250.00 in cash provided by Drug Task Force officers.

5. On September 6, 2005, a controlled buy took place in the parking lot at Hite Field, a football field owned by the Harrison County Board of Education, a protected location within the Northern District of West Virginia. Law enforcement utilized the same confidential informant to purchase cocaine from an individual Sgt. Purkey identified as Defendant. The controlled buy was audio and videotaped, and the substance was laboratory-tested and confirmed to be cocaine. The cocaine, in the amount of 3.11 grams, was purchased for \$250.00 in cash provided by Drug Task Force officers.
6. On September 13, 2005, a controlled buy took place at the Mountaineer Mart in Clarksburg, West Virginia. Law enforcement utilized a confidential informant to purchase cocaine from an individual Sgt. Purkey identified as Defendant. The controlled buy was audio and videotaped, and the substance was laboratory-tested and confirmed to be cocaine. The cocaine, in the amount of just over 1.66 grams, was purchased for \$250.00 in cash provided by Drug Task Force officers.
7. On January 20, 2006, Defendant furnished a urine specimen that tested positive for marijuana. Defendant admitted he used marijuana prior to the drug test and signed a Positive Urinalysis Test Acknowledgment. The specimen was sent for laboratory testing, which indicated it was below the cutoff level but was dilute.
8. This evidence constitutes probable cause that Defendant violated Mandatory Condition No. 1 by committing another federal, state or local crime, and by illegally possessing a controlled substance.
9. This evidence also constitutes probable cause that Defendant violated Mandatory Condition No. 5 that he refrain from any unlawful use of a controlled substance in that he admitted to

using marijuana notwithstanding that laboratory test results were below the cutoff level and dilute.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated conditions of his supervised release as alleged and numbered 1 through 3 in the Petition for Warrant or Summons for Offender Under Supervision filed February 8, 2006.

Defendant waived hearing on the issue of detention or release at this time.

It is therefore

ORDERED that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, United States District Judge for the Northern District of West Virginia on Violations numbered 1 through 3 of the Petition for Warrant or Summons for Offender Under Supervision filed February 8, 2006.

It is further

ORDERED that the defendant be remanded to the custody of the United States Marshal pending further proceedings herein.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: March 10, 2006


JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE